IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7602 of 1997
with
SPECIAL CIVIL APPLICATION NO 7603 OF 1997

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JILABHAI VASTABHAI C/O S'NAGAR JILLA SHRMJIVI

Versus

STATE OF GUJARAT

Appearance:
MRS DT SHAH for Petitioner No. 1
Mr. LB Dabhi, AGP for Respondent No. 1-3-2

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 19/10/2004

ORAL JUDGEMENT

Learned advocate Mrs. D.T. Shah has filed sick

note for today. Nobody has made mention of these matters on her behalf. However, this being a matter covered by the decision of the Full Bench of this Court reported in 2004 (2) GLH 302, this court has examined this matter in light of the prayers made by the petitioners in these two petitions. The petitioners are praying for directing the respondents to pay benefit of the GR dated 17.10.88, minimum time scale with all other service benefits and difference of salary. In both the petitions, petitioners are praying for identical reliefs. As per the decision of the Full Bench of this Court reported in 2004 (2) GLH 302, the GR dated 17.10.88 is not applicable to the employees working in the Forest Department. Further, the respondents Forest Department has filed affidavit in reply that the GR dated 17.10.88 is not applicable to the employees working in the forest department. The respondents have also raised dispute about the nature of work performed by the petitioners, length of their service and other respective aspects. Thus, the facts alleged by the petitioners in their memo of petitions have been disputed by the respondents. Therefore, such disputed questions of fact cannot be decided or examined by this Court while exercising extraordinary powers under Article 226 of the Constitution of India. Therefore, in such circumstances, if the petitioners are having any grievance about the pay scale or benefit of regularization, then, they are required to raise industrial dispute under the machinery of the ID Act, 1947.

Therefore, it will be open for the petitioners to raise the industrial dispute as per the prayers made in the memo of petitions under the Machinery of the ID Act, 1947. As and when such industrial dispute will be raised by the petitioners herein before the conciliation officer concerned, the concerned conciliation officer will immediately initiate the conciliation proceedings and will pass appropriate order in accordance with the provisions of the ID Act, 1947. With these observations and directions, this petition is disposed of. Rule is discharged. No order as to costs.

(H.K. Rathod,J.)

Vyas